

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 2, 2004

IN RE:

TENNESSEE COALITION OF RURAL INCUMBENT  
TELEPHONE COMPANIES AND COOPERATIVES  
REQUEST FOR SUSPENSION OF WIRELINE TO  
WIRELESS NUMBER PORTABILITY OBLIGATIONS  
PURSUANT TO SECTION 251(F)(2) OF THE  
COMMUNICATIONS ACT OF 1934, AS AMENDED

DOCKET NO.  
03-00633

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ORDER GRANTING PETITION FOR LEAVE TO INTERVENE  
FILED BY SPRINTCOM, INC. D/B/A SPRINT PCS AND  
ESTABLISHING RESTRICTED AMENDED PROCEDURAL SCHEDULE

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This matter is before the Hearing Officer upon the Petition for Leave to Intervene ("Petition") filed by SprintCom, Inc. d/b/a Sprint PCS ("Sprint") on May 14, 2004. On May 26, 2004, the Tennessee Coalition of Rural Incumbent Telephone Companies and Cooperatives (the "Coalition") filed *The Coalition's Opposition to Motion to Intervene by SprintCom, Inc.* ("Opposition"). Sprint responded to the Coalition's Opposition on May 28, 2004.

**Sprint's Petition**

In its Petition, Sprint asserts that it is a commercial mobile radio service ("CMRS") provider authorized to provide wireless services in Tennessee and providing services in counties in which members of the Coalition operate. According to Sprint, rural customers may seek to port their landline numbers to Sprint and in the event of a delay in the implementation of local number portability ("LNP"), Sprint may be forced to deny customers' porting requests. For this reason, Sprint asserts that it has a legal interest in the Tennessee Regulatory Authority's determination of the Coalition's request to extend the time period for implementing LNP.

The Coalition has objected to Sprint's Petition, stating that the Petition was not timely filed in that the parties are in the midst of an expedited procedural schedule. The Coalition suggests, in the alternative, that if intervention is granted to Sprint then a "minimum of at least two to three weeks" should be added to the proceeding "to accommodate this new party."<sup>1</sup>

Counsel for Sprint has responded that Sprint's Petition has been timely filed in relation to the proposed Hearing date. In addition, Sprint states that its intervention could be limited to accommodate the Hearing date, such as restricting Sprint's participation in discovery.

### **Criteria for Permitting Intervention**

Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions for intervention:

#### **4-5-310. Intervention**

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

Under Tenn. Code Ann. § 4-5-310(c), if a petitioner qualifies for intervention, the Hearing Officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Such conditions may include: (1) limiting the intervenor's participation to designated issues in which the intervenor

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<sup>1</sup> *The Coalition's Opposition to Motion to Intervene by SprintCom, Inc*, p 1 (May 26, 2004) The Hearing Officer notes that on May 19, 2004, the Coalition filed a request that the Hearing date be moved to the week of June 28 or July 6, 2004, due to the unavailability of its primary non-party witness. The panel assigned to this matter will consider the Coalition's request at the TRA's June 7, 2004 Authority Conference.

has a particular interest demonstrated by the petition; (2) limiting the intervenor's use of discovery, cross-examination and other procedures so as to promote the orderly and prompt conduct of the proceedings; and (3) requiring two (2) or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery and other participation in the proceedings.<sup>2</sup>

### **Findings and Conclusions**

No party has opposed Sprint's Petition on the grounds that Sprint does not have any legal rights, duties or interests that may be determined in this proceeding nor has any party raised an objection to the Petition that granting the Petition would impair the interests of justice or obstruct the orderly conduct of these proceedings.

Under Tenn. Code Ann. § 4-5-310, any party having a legal interest that may be determined in a proceeding before the Authority may file a petition for intervention to participate in the proceeding in question. The Hearing Officer finds that the legal rights, duties, privileges, immunities or other legal interests of Sprint may be determined in this proceeding. The Hearing Officer also finds that the Petition is timely in that it has been filed more than seven days before the Hearing in this docket and that the interests of justice will not be impaired by granting intervention to Sprint.

After reviewing the Petition, the Opposition filed by the Coalition and Sprint's response to the Coalition's Opposition, the Hearing Officer concludes that the Petition complies with the requirements of Tenn. Code Ann. § 4-5-310 and should be granted. In granting intervention to Sprint, the Hearing Officer also concludes that certain limitations must be placed on participation by Sprint and certain adjustments made to the procedural schedule to ensure that these proceedings are conducted promptly. Therefore, in accordance with Tenn. Code Ann. § 4-5-

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<sup>2</sup> Tenn. Code Ann § 4-5-310(c)

310(c), Sprint is granted intervention subject to the following limitations and accommodations to the existing procedural schedule. . Sprint shall not initiate discovery requests to the Coalition or other parties in this matter. The Coalition may, however, direct discovery requests to Sprint. In order for the expedited schedule to accommodate this additional discovery, the Hearing Officer determines that, as to the participation of Sprint, the Coalition's discovery shall follow the filing of direct testimony by Sprint, unlike the procedure set forth in the Hearing Officer's Order of May 7, 2004.

Sprint shall file its Direct Testimony in this matter according to the schedule that follows. Thereafter, if the Coalition determines that discovery to Sprint is necessary in order to prepare rebuttal testimony, the Coalition may serve discovery requests on Sprint. Sprint shall respond to any discovery from the Coalition in an expedited manner. The Coalition shall then supplement its rebuttal testimony to the extent necessary to rebut the testimony or discovery responses filed by Sprint. Any such rebuttal testimony filed by the Coalition shall be limited to rebutting the direct testimony of Sprint and shall not be utilized to rebut the testimony filed by other parties in this matter.

**Amended Procedural Schedule as to the Coalition and Sprint**

To accommodate the prompt conduct of these proceedings, the following restricted amended procedural schedule shall be in place only as to the Coalition and Sprint in this docket:

<b>Sprint's Direct Testimony Due</b>	<b>Monday, June 7, 2004</b>
<b>Coalition's Discovery Requests Served on Sprint (one copy filed with the Authority)</b>	<b>Thursday, June 10, 2004</b>
<b>Sprint's Responses to Coalition's Discovery Requests (one copy filed with the Authority)</b>	<b>Monday, June 14, 2004</b>

**Coalition's Rebuttal Testimony Due  
(Supplemental only as to Direct  
Testimony filed by Sprint)**

**Friday, June 18, 2004**

All filings are required to be submitted to the Authority no later than **4:00 p.m.** on the date they are due. Copies of all filings shall be served on parties on the due date.

All dates set forth in the initial expedited Procedural Schedule in the Hearing Officer's May 7, 2004 Order remain effective as to the Coalition and the other intervenors in this matter, the Consumer Advocate and Verizon Wireless. Sprint may file rebuttal testimony in accordance with the May 7, 2004 Procedural Schedule.

**IT IS THEREFORE ORDERED THAT:**

1. SprintCom, Inc. d/b/a Sprint PCS is given leave to intervene in this docket and receive copies of any notices, orders and other documents herein.
2. The procedural schedule as to the filing of discovery and testimony by the Coalition and Sprint only shall be as set forth in this Order.

  
J. Richard Collier, Hearing Officer